

REMARKS

Applicants acknowledge receipt of the Examiner's Office Action dated March 24, 2009. Claims 1-8, 10-16, 24-27 and 30-43 are pending. Claims 1-8, 10-16, 24-27 and 30-43 have been rejected.

Rejection under 35 U.S.C. §103

Claims 1-8, 10-16, 24-27 and 30-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,838,690 issued to Kano et al. (Kano), in view of U.S. Patent Publication No. 2002/0176357 naming Lay as inventor (Lay), and further in view of U.S. Patent No. 6,870,854 issued to Aimoto et al. (Aimoto). *See* Office Action, p. 2. Applicants respectfully traverse this rejection.

Independent claim 1 recites limitations directed toward (1) a transmitting device transmitting data to a memory at a first non-zero rate, and (2) the transmitting device transmitting data to the memory at a second non-zero rate. Thus, claim 1 recites a change in the rate at which a transmitting device transmits data to a memory. The claim does not recite a change in the rate at which downstream devices or connections receive data from a memory. However, the combination of Kano, Lay, and Aimoto fails to teach a change in the rate at which a transmitting device transmits data to a memory. Instead, the combination, at best, teaches a change in the rate at which downstream devices or connections receive data from a memory.

The Office Action equates Kano's "transmitting buffer . . . included in router 30" with the claimed memory. *See* Office Action, p. 2, citing Kano 5:9-11. The Office Action then relies upon Kano 5:25-27 to show a teaching of a transmitting device transmitting

data to a memory at a second non-zero rate. *See* Office Action, p. 2. Kano 5:25-27 states that an “AT” command, which has been sent to multiplexer 10, includes “information for specifying the communication rate of the next stage of the current communication rate in the direction of the maximum communication rate.”

While this section of Kano may (or may not) teach the changing of a rate, Kano 5:20-67 clarifies that the purported consequences of sending of this “AT” command are “increasing the communication rate of the communication line 60,” and changing “the communication rate of the communication line 50” (emphasis added). Kano fails to teach that these lines are used to transmit data to the transmitting buffer included in router 30. In fact, Kano makes it clear that the discussion of rate changes contained in the cited sections occurs in a context in which data is sent “from the LAN 70 toward the LAN 80.” *See* Kano 5:7-8 (emphasis added). Thus, the transmitting buffer included in router 30 receives data from the LAN 70 and sends data to communication lines 50 and 60. *See* Kano, FIG. 1. Thus, lines 50 and 60 are downstream from the transmitting buffer included in router 30. Thus, the combination of references, at best, teaches a change in the rate at which downstream devices or connections receive data from a memory. The combination does not teach a change in the rate at which a transmitting device transmits data to a memory

Further, in order for the combination of references to teach a change in the rate at which a transmitting device transmits data to a memory, Kano would at least be required to teach that LAN 70 changed its rate, since LAN 70 is the entity that purportedly transmits data to the transmitting buffer included in router 30. Not only does Kano fail to contain such a teaching, but changing the rate at which LAN 70 transmits data to the

transmitting buffer included in router 30 would only exacerbate the problem Kano intends to mitigate by implementing changes to the rates of communication lines 50 and 60.

When the “vacant area in the transmitting buffer [included in router 30] . . . is less than a predetermined threshold” Kano takes steps, including sending the above-mentioned “AT” command, to increase the rates of communication lines 50 and 60. *See* Kano, 5:7-67. This allows the transmitting buffer to send more data to LAN 80 through communication lines 50 and 60, thereby alleviating the build-up of data stored in the transmitting buffer included in router 30. However, if LAN 70 were to increase its rate of transmission to the transmitting buffer included in router 30 when the “vacant area in the transmitting buffer . . . is less than a predetermined threshold,” the build-up of data would be increased, not alleviated. Since claim 1 states that “the second non-zero rate is greater than the first non-zero rate,” LAN 70 would need to increase its rate of transmission in order for the combination to teach each of the limitations of claim 1.

Thus, for at least the reasons that (1) the combination, at best, teaches a change in the rate at which downstream devices or connections (communication links 50 and 60) receive data from a memory (transmitting buffer included in router 30), and (2) the combination teaches against LAN 70 transmitting data at an increased rate to transmitting buffer included in router 30, Applicants respectfully request the reconsideration and withdrawal of this rejection against independent claim 1 and its dependent claims. Since the remaining independent claims, 10, 24, 30, and 31, contain similar limitations and have been rejected for similar reasons (*see* Office Action, pp. 8-9, 12-13, 16-17, and 18-

19), Applicants respectfully request the reconsideration and withdrawal of the rejection of these claims and their respective dependent claims.

Applicants note that in making the above arguments it has been assumed that certain entities discussed in Kano are comparable to certain claimed entities. Applicants have entered into these assumptions solely for the sake of increasing the clarity with which the arguments are presented. Applicants do not necessarily intend to endorse these assumptions.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric A. Stephenson', with a long horizontal line extending to the right.

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